

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rebecca Jacobson	Team: Squad #9	CCRB Case #: 201404614	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 05/11/2014 11:35 AM	Location of Incident: § 87(2)(b) ; 83rd Precinct stationhouse	Precinct: 83	18 Mo. SOL 11/11/2015	EO SOL 11/11/2015	
Date/Time CV Reported Tue, 05/13/2014 8:51 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 05/13/2014 8:51 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Thomas Denicker	16769	950310	083 PCT
2. POM Brenton Cole	20081	940016	083 PCT
3. An officer			083 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Shaun Tanner	23860	933401	083 PCT
2. LT Waheed Akhter	00000	936106	083 PCT
3. SGT Michael Duran	02563	915655	083 PCT
4. POM Carlos Galarza	26543	948211	083 PCT
5. POM Chung Tong	19160	942881	083 PCT
6. POM Jason Costa	09536	950240	083 PCT
7. POM Joshep Palaguachi	25704	950999	083 PCT
8. POM Saeed Nieves	17115	946060	083 PCT
9. POM Francisco Delgado	09815	950299	083 PCT
10. POM Gregory Lecrann	23974	950735	083 PCT
11. POM Joseph Giannina	29356	950490	083 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Abuse: An officer entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B. An officer	Discourtesy: At § 87(2)(b) in Brooklyn an officer spoke rudely to § 87(2)(b)	§ 87(2)(b)
C. POM Brenton Cole	Abuse: At § 87(2)(b) in Brooklyn, and the 83rd Precinct stationhouse, PO Brenton Cole refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
D. POM Thomas Denicker	Abuse: At § 87(2)(b) in Brooklyn and the 83rd Precinct stationhouse, PO Thomas Denicker refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
E. An officer	Abuse: At § 87(2)(b) in Brooklyn, an officer searched § 87(2)(b) s phone.	§ 87(2)(b)

Case Summary

On May 11, 2014, at approximately 11:35 a.m., officers from the 83rd Precinct respond to an assault at § 87(2)(b) in Brooklyn. Officers entered the apartment and arrested § 87(2)(b) (**Allegation A**). While in the apartment, an officer told § 87(2)(b) to “shut the fuck up” and § 87(2)(b) asked PO Brenton Cole and PO Thomas Denicker for their badge numbers, which they told him they would provide later and did not. § 87(2)(b) asked PO Cole and PO Denicker for their badge numbers two other times during the incident (**Allegations B, C, and D**). § 87(2)(b) was searched incident to arrest and during the search, his cell phone was removed from his pocket. An officer took his phone and began looking through it (**Allegation E**).

This case was originally assigned to Inv. Alex Opoku-Agyemang. Upon agency restructuring, it was reassigned to the undersigned on April 28, 2015. An IAB spin-off, case § 87(2)(b) was created for a portion of § 87(2)(b)'s complaint regarding seizure of property.

Mediation, Civil, and Criminal Histories

This case was ineligible for mediation due to § 87(2)(b)'s arrest (encl. G14-G16). A notice of claim request was sent on May 6, 2015, and the results will be added to the case file upon receipt. On May 12, 2015, a search of the Office of Court Administration records revealed that § 87(2)(b) has no prior criminal history (encl. T1-T5).

Civilian and Officer CCRB Histories

- § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- PO Cole has been a member of the NYPD for nine years and has had 33 previous allegations involving 12 cases. In CCRB 201114924, an allegation of stop (of person) was substantiated with charges, § 87(4-b), § 87(2)(g) § 87(2)(b) (encl. A1-A3).
- PO Denicker has been a member of the NYPD for three years, and has had one previous allegation involving one case, which was not substantiated. § 87(2)(g) § 87(2)(b) (encl. A4).

Findings and Recommendations

Allegations Not Pleaded

- **Force:** § 87(2)(g) § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Explanation of Subject Officer Identification

§ 87(2)(b) alleged that an officer opened the door to his grandmother's apartment, wedged his foot in the door, and would not allow § 87(2)(b) to close the door. § 87(2)(b) described this officer as an “Indian” male, standing shorter than 5’7” tall, with an average build, black hair, and wearing glasses.

The Event Unit information for Event § 87(2)(b) listed the 83rd Precinct Sector A, C, G, H, I and lieutenant unit as arriving at the incident location. The roll call from the day of the incident was used to identify all officers assigned to these sectors, as well as the lieutenant and his operator. The lieutenant on scene for this incident, Lt. Akhter, is an Asian-Indian male, standing 5’9” tall, weighs 179 pounds, and has black hair. However, Lt. Akhter denied being present

when the door to the apartment was open and § 87(2)(b) stated that at the time of the initial entry, he did not see any officers in white shirts, which Lt. Akhter would have been wearing. During the course of investigation, eight different officers provided testimony regarding the entry into § 87(2)(b). Of these officers, only four, PO Cole, PO Denicker, PO Delgado, and PO Nieves, stated that they were present when the door actually became opened. § 87(2)(g)

§ 87(2)(b) described the two officers who came in immediately after the first officer and later refused to provide their shield numbers as a black male in his 30s who “looked African,” standing 6’0” tall, with a heavy-set build and a Hispanic or white, “Puerto Rican or Jewish” male in his 30s, standing 6’0” tall, with an average build and lightly balding black hair. PO Cole is a § 87(2)(b)-old dark-skinned black male, standing 6’2” tall, and weighing 230 pounds (encl. H7). PO Denicker is a § 87(2)(b)-old white male, standing 6’1”, weighing 195 pounds, and has brown hair (encl. J9). Both PO Cole and PO Denicker matched § 87(2)(b)’s descriptions and they confirmed that they entered § 87(2)(b) behind other officers. As such **Allegations C and D** are pleaded against them.

Allegation A –Abuse of Authority: An officer entered § 87(2)(b) in Brooklyn.

It is undisputed that officers entered § 87(2)(b). The issue that is in dispute is which officer entered first, prompting others to follow, and the manner in which officers entered.

§ 87(2)(b) alleged that the front door of his apartment was closed, but not locked, when he heard six loud knocks. Immediately following the knocks, the door opened slightly. § 87(2)(b) braced against the door with his shoulder to keep it closed and an officer placed his foot in the doorway to prevent the door from being closed. § 87(2)(b) said to the officer, “You can’t come in here, you can’t just open the door and come in here like that.” The officer did not reply, at which point § 87(2)(b) told him, “You know what, my grandma is getting dressed, hold on a second and you can come in.” The officer with his foot in the doorway turned and told other officers behind him, “His grandma is getting dressed, hold on a second.” Another officer replied, “Nah, we’re going in,” and immediately pushed the door fully open (encl. C2-C5).

§ 87(2)(b) § 87(2)(b)’s grandmother, was present in the apartment when officers entered. § 87(2)(b) stated that she was on the couch in the living room when she heard a knock on the front door, but she could not see the front door from where she was seated. § 87(2)(b) went to the front door and § 87(2)(b) heard him say that his grandmother was getting dressed and tell whoever was at the front door that they could not enter. § 87(2)(b) finished dressing and walked towards the front door, where she observed a large number of uniformed officers pushing the door open and entering the apartment. All the officers were uniformed, and one officer was wearing a white shirted uniform.

§ 87(2)(b) resides in § 87(2)(b). She stated that following her argument with § 87(2)(b) § 87(2)(b), the victim of the assault and § 87(2)(b)’s sister, fled into § 87(2)(b). After § 87(2)(b) called 911, approximately five officers arrived at § 87(2)(b)’s apartment and spoke with § 87(2)(b) who identified her brother as her assailant. The officers proceeded across the hall. § 87(2)(b) did not witness the officers’ entry into § 87(2)(b) but later observed officers exiting the apartment. § 87(2)(b) was not cooperative in providing a statement for the investigation.

As discussed above, Lt. Akhter is the officer who most closely matches § 87(2)(b)’s description of the officer with his foot in the doorframe. Lt. Akhter stated that when he arrived to the incident scene, he observed officers already inside of § 87(2)(b) and by the time he entered the

apartment, § 87(2)(b) was already handcuffed. Lt. Akhter stated that he had not observed the officers' entry into the apartment or the apprehension of § 87(2)(b) (encl. K5-K6).

Both PO Delgado and PO Nieves witnessed the entry into § 87(2)(b)'s apartment. PO Delgado stated that when he arrived at the incident scene, the only officer he could remember as being present was PO Galarza, who was Lt. Akhter's operator on the day of the incident, but could not recall if Lt. Akhter was present at this point. Officers knocked on the door of § 87(2)(b) for approximately a minute, but no one answered. At this point, the victim of the assault, § 87(2)(b), opened the door of the apartment across the hall, § 87(2)(b) which she had fled to. The officers went to speak with § 87(2)(b) and while they were, the door to § 87(2)(b) was opened from the inside by § 87(2)(b). An officer, PO Delgado could not recall who, went and spoke with § 87(2)(b). Three to four officers, including PO Delgado, PO Nieves, and PO Denicker, then entered § 87(2)(b). PO Delgado denied that any officer forced their way into the apartment or that § 87(2)(b) ever specifically told officers that they could not enter (encl. L5-L6).

PO Nieves stated that when he arrived at the incident scene, officers were speaking with § 87(2)(b) in § 87(2)(b). PO Nieves could not recall how many officers were there or who specifically was present. He recalled that Lt. Akhter was present at the incident scene, but could not recall when he arrived. The officers were speaking with § 87(2)(b) the door to § 87(2)(b) opened and § 87(2)(b) was standing in the doorway. § 87(2)(b) began to argue with § 87(2)(b) and the officers, at which point an officer, PO Nieves could not recall who, told § 87(2)(b) to step back, which he complied with. Approximately two to six officers, PO Nieves could not recall who, then entered § 87(2)(b). PO Nieves never heard officers explicitly request permission to enter, § 87(2)(b) state that officers could not enter the apartment, or see § 87(2)(b) attempt to close the door or impede officers' entry (encl. M5-M6).

PO Denicker stated that when he arrived at the incident scene, the door to § 87(2)(b) was slightly open but he did not see anyone at the door or inside the apartment. Officers were speaking with § 87(2)(b) when § 87(2)(b) opened the door of § 87(2)(b) fully from inside. § 87(2)(b) identified § 87(2)(b) as her assailant, at which point, officers approached the door of § 87(2)(b). § 87(2)(b) said that his grandmother was getting dressed and attempted to "slam" the door closed. An officer, PO Denicker could not recall who, stopped § 87(2)(b) from being able to close the door, although PO Denicker could not recall how the officer did this. Several officers, PO Denicker could not recall how many but stated it included himself, Lt. Akhter, and PO Tanner, entered the apartment. PO Denicker stated that PO Cole did not enter the apartment (encl. J7-J8).

PO Cole stated that when he arrived at the incident scene, § 87(2)(b) was standing in the open doorway of § 87(2)(b). PO Cole estimated that there were approximately five officers present at this time and Lt. Akhter was one of them. Officers approached § 87(2)(b) who attempted to close the door of the apartment. PO Cole stated that PO Tanner was the officer who was standing closest to the door at this time and he placed his hand on the door, pushed it in, and prevented § 87(2)(b) from closing the door. Once PO Tanner placed his hand on the door, § 87(2)(b) stopped pushing it closed. PO Cole did not hear say, "You can't come in here," or mention anything about his grandmother getting dressed (encl. H5-H6).

PO Tanner stated that when he arrived at the incident, approximately six officers, in addition to Lt. Akhter, were present. Some of the officers, including Lt. Akhter, were already inside of § 87(2)(b). PO Tanner went to § 87(2)(b) and spoke with § 87(2)(b). While speaking with § 87(2)(b) inside § 87(2)(b) PO Tanner observed a handcuffed § 87(2)(b) being brought out of § 87(2)(b) (encl. G25).

§ 87(2)(g)

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(b) alleged that after being arrested, an officer told him to “shut the fuck up.” All officers interviewed denied making this statement and denied hearing any other officer make this statement. § 87(2)(g)

§ 87(2)(b)

PO Cole and PO Denicker both denied hearing § 87(2)(b) request their badge number or another officer's badge number at any part during the incident. All other officers interviewed did not recall § 87(2)(b) asking for any officer's badge at any point in the incident, at the scene or stationhouse. § 87(2)(g)

§ 87(2)(b) alleged that an officer, identified as PO Cole, removed § 87(2)(b)'s phone from his pocket and handed it to another officer, who then proceeded to look through the phone. § 87(2)(b) described this officer as a Hispanic male, standing approximately 5'10" tall with short hair.

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§ 87(2)(b) described this officer as simply holding the phone and stated he did not appear to be looking through it.

The investigation determined there to be three Hispanic male officers present at the incident scene, PO Delgado, PO Palaguachi, and PO Nieves. Although PO Delgado and PO Palaguachi are 5’7” tall and PO Nieves is 5’11” tall, all three are Hispanic with short hair (encl. L7, O7, M7). PO Delgado, PO Palaguachi, and PO Nieves all denied ever being in possession of § 87(2)(b) s phone or seeing any officer in possession of it or looking through it. All other officers also denied ever seeing an officer in possession of § 87(2)(b) s phone or looking through it. Although § 87(2)(b) stated that she did see an officer in possession of § 87(2)(b) s phone, she denied that the officer ever appeared to be looking through it. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Pod: 9

Investigator:	_____	_____	_____
	Signature	Print	Date
Supervisor:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date